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SENATE BILL NO. 480

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 2.2-106, 2.2-225, 2.2-1115.1, 2.2-1509.3, 2.2-2005, 2.2-2006, 2.2-2007, 2.2-2008, 2.2-2009, 2.2-2015, 2.2-2019, 2.2-2020, 2.2-2021, 2.2-2023, 2.2-2033, 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 2009 Acts of Assembly; and to repeal 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, Chief Information Officer, and the Information Technology Investment Board; emergency.

Patrons—Howell and Stosch

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, 2.2-1115.1, 2.2-1509.3, 2.2-2005, 2.2-2006, 2.2-2007, 2.2-2008, 2.2-2009, 2.2-2015, 2.2-2019, 2.2-2020, 2.2-2021, 2.2-2023, 2.2-2033, 23-38.111, and 23-77.4 of the Code of Virginia are amended and reenacted 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; and (iv) assigned by law to other departments or agencies, not including assignments to secretaries under Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

D. Severance benefits provided to any departing agency head, whether or not appointed by the

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59 Governor, shall be publicly announced by the appointing authority prior to such departure.

60 § 2.2-225. Position established; agencies for which responsible; additional powers.

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

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

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

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

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

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

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

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

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

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

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

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

98 11. *Terminate any major information technology project recommended for termination by the Chief*  
99 *Information Officer pursuant to § 2.2-2015.*

100 § 2.2-1115.1. Standard vendor accounting information.

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

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

114 § 2.2-1509.3. Budget bill to include appropriations for major information technology projects.

115 A. For purposes of this section:

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

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

119 B. In "The Budget Bill" submitted pursuant to § 2.2-1509, the Governor shall provide for the funding  
120 of major information technology projects, as specified herein. Such funding recommendations shall be

121 for major information technology projects that have or are pending project development approval as  
 122 defined by § 2.2-2019 or procurement approval as defined by § 2.2-2020.

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

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

130 2. A brief explanation of the inclusion of any project in the budget bill that has not undergone  
 131 review and approval by the ~~Information Technology Investment Board~~ as required by ~~§ 2.2-2458~~ *Chief*  
 132 *Information Officer*;

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

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

138 5. Recommendations or comments of the Public-Private Partnership Advisory Commission, if the  
 139 project is part of a proposal under the Public-Private Education Facilities and Infrastructure Act of 2002  
 140 (§ 56-575.1 et seq.); and

141 6. The ~~Information Technology Investment Board's~~ *Chief Information Officer's* assessment of the  
 142 project and the status as of the date of the budget bill submission to the General Assembly.

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

148 § 2.2-2005. Creation of Agency; appointment of Chief Information Officer.

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

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

158 § 2.2-2006. Definitions.

159 As used in this chapter:

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

161 "CIO" means the *Chief Information Officer*.

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

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

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

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

174 "Noncommercial telecommunications entity" means any public broadcasting station as defined in  
 175 § 2.2-2427.

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

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

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

183 "Secretary" means the Secretary of Technology.

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

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

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

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

197 § 2.2-2007. Powers of the CIO.

198 A. In addition to such other duties as the ~~Board~~ *Governor* may assign, the CIO shall:

199 1. Monitor trends and advances in information technology; develop a comprehensive, statewide,  
200 four-year strategic plan for information technology to include specific projects that implement the plan;  
201 and plan for the acquisition, management, and use of information technology by state agencies. The  
202 statewide plan shall be updated annually and submitted to the ~~Board~~ for approval.

203 2. Direct the formulation and promulgation of policies, guidelines, standards, and specifications for  
204 the purchase, development, and maintenance of information technology for state agencies, including, but  
205 not limited to, those (i) required to support state and local government exchange, acquisition, storage,  
206 use, sharing, and distribution of geographic or base map data and related technologies, (ii) concerned  
207 with the development of electronic transactions including the use of electronic signatures as provided in  
208 § 59.1-496, and (iii) necessary to support a unified approach to information technology across the  
209 totality of state government, thereby assuring that the citizens and businesses of the Commonwealth  
210 receive the greatest possible security, value, and convenience from investments made in technology.

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

219 4. Review budget requests for information technology from state agencies and public institutions of  
220 higher education and recommend budget priorities to the ~~Information Technology Investment Board~~  
221 *Governor*.

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

234 5. Direct the development of policies and procedures for the effective management of information  
235 technology investments throughout their entire life cycles, including, but not limited to, project  
236 definition, procurement, development, implementation, operation, performance evaluation, and  
237 enhancement or retirement. Such policies and procedures shall include, at a minimum, the periodic  
238 review by the CIO of agency and public institution of higher education information technology projects  
239 estimated to cost \$1 million or more or deemed to be mission-critical or of statewide application by the  
240 CIO. The CIO shall provide technical guidance to the Department of General Services in the  
241 development of policies and procedures for the recycling and disposal of computers and other  
242 technology assets. Such policies and procedures shall include the expunging, in a manner as determined  
243 by the CIO, of all state confidential data and personal identifying information of citizens of the

244 Commonwealth prior to such sale, disposal, or other transfer of computers or other technology assets.  
 245 6. Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to  
 246 § 2.2-2023.

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

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

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

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

262 B. Consistent with § 2.2-2012, the CIO may enter into public-private partnership contracts to finance  
 263 or implement information technology programs and projects. The CIO may issue a request for  
 264 information to seek out potential private partners interested in providing programs or projects pursuant to  
 265 an agreement under this subsection. The compensation for such services shall be computed with  
 266 reference to and paid from the increased revenue or cost savings attributable to the successful  
 267 implementation of the program or project for the period specified in the contract. The CIO shall be  
 268 responsible for reviewing and approving the programs and projects and the terms of contracts for same  
 269 under this subsection. The CIO shall determine annually the total amount of increased revenue or cost  
 270 savings attributable to the successful implementation of a program or project under this subsection and  
 271 such amount shall be deposited in the Virginia Technology Infrastructure Fund created in § 2.2-2023.  
 272 The CIO is authorized to use moneys deposited in the Fund to pay private partners pursuant to the terms  
 273 of contracts under this subsection. All moneys in excess of that required to be paid to private partners,  
 274 as determined by the CIO, shall be reported to the Comptroller and retained in the Fund. The CIO shall  
 275 prepare an annual report to the Governor and General Assembly on all contracts under this subsection,  
 276 describing each information technology program or project, its progress, revenue impact, and such other  
 277 information as may be relevant.

278 § 2.2-2008. Additional duties of the CIO relating to project management.

279 The CIO shall have the following duties relating to the management of information technology  
 280 projects:

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

284 2. Establish a methodology for conceiving, planning, scheduling and providing appropriate oversight  
 285 for information technology projects including a process for approving the planning, development and  
 286 procurement of information technology projects. Such methodology shall include guidelines for the  
 287 establishment of appropriate oversight for information technology projects.

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

289 4. Review and approve all procurement solicitations involving major information technology projects.

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

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

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

296 8. Determine, prior to proceeding with the development of a major information technology project  
 297 pursuant to § 2.2-2019 or the procurement of any major information technology project pursuant to  
 298 § 2.2-2020, that the funding for such project has been included in the budget bill in accordance with  
 299 § 2.2-1509.3. ~~Notwithstanding the~~ *The* provisions of this subdivision, *shall not apply* upon determination  
 300 by the Governor that an emergency exists and a major information technology project is necessary to  
 301 address the emergency; ~~the CIO shall refer such project directly to the Information Technology~~  
 302 ~~Investment Board.~~

303 § 2.2-2009. Additional duties of the CIO relating to security of government information.

304 A. To provide for the security of state government electronic information from unauthorized uses,

305 intrusions or other security threats, the CIO shall direct the development of policies, procedures and  
306 standards for assessing security risks, determining the appropriate security measures and performing  
307 security audits of government electronic information. Such policies, procedures, and standards will apply  
308 to the Commonwealth's executive, legislative, and judicial branches, and independent agencies and  
309 institutions of higher education. The CIO shall work with representatives of the Chief Justice of the  
310 Supreme Court and Joint Rules Committee of the General Assembly to identify their needs.

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

319 C. The CIO shall report to the Governor and General Assembly by December 2008 and annually  
320 thereafter, those executive branch and independent agencies and institutions of higher education that  
321 have not implemented acceptable policies, procedures, and standards to control unauthorized uses,  
322 intrusions, or other security threats. For any executive branch and independent agency or institution of  
323 higher education whose security audit results and plans for corrective action are unacceptable, the CIO  
324 shall report such results to the (i) ~~Information Technology Investment Board~~ *Secretary of Technology*,  
325 (ii) *any other* affected cabinet secretary, (iii) Governor, and (iv) Auditor of Public Accounts. Upon  
326 review of the security audit results in question, the ~~Information Technology Investment Board~~ *CIO* may  
327 take action to suspend the public ~~bodies~~ *body's* information technology projects pursuant to ~~subdivision~~  
328 ~~3 of § 2.2-2458~~ § 2.2-2015, limit additional information technology investments pending acceptable  
329 corrective actions, and recommend to the Governor any other appropriate actions.

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

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

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

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

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

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

351 § 2.2-2015. Authority of CIO to modify or suspend major information technology projects; project  
352 termination.

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

360 The provisions of this section shall not apply to research projects, research initiatives or instructional  
361 programs at public institutions of higher education. However, technology investments in research  
362 projects, research initiatives or instructional programs at such institutions estimated to cost \$1 million or  
363 more of general fund appropriations may be reviewed as provided in subdivision A 5 of § 2.2-2007 if  
364 the projects are deemed mission-critical by the institution or of statewide application by the CIO. The  
365 CIO and the Secretary of Education, in consultation with public institutions of higher education, shall  
366 develop and provide to such institution criteria to be used in determining whether projects are

367 mission-critical.

368 § 2.2-2019. Project development approval.

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

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

378 § 2.2-2020. Procurement approval for major information technology projects.

379 Upon approval of the ~~Board~~ CIO of the project development proposal involving a major information  
380 technology project that requires the procurement of goods or services, the agency shall submit a copy of  
381 any Invitation for Bid (IFB) or Request for Proposal (RFP) to the Division. The project management  
382 specialist shall review the IFB or RFP and recommend its approval or rejection to the CIO. The CIO  
383 shall have the final authority to approve the IFB or RFP prior to its release and shall approve the  
384 proposed contract for the award of the project.

385 § 2.2-2021. Project oversight.

386 A. Whenever an agency has received approval from the ~~Board~~ CIO to proceed with the development  
387 and acquisition of a major information technology project, an internal agency oversight committee shall  
388 be established by the CIO. The internal agency oversight committee shall provide ongoing oversight for  
389 the project and have the authority to approve or reject any changes in the project's scope, schedule, or  
390 budget. The CIO shall ensure that the project has in place adequate project management and oversight  
391 structures for addressing major issues that could affect the project's scope, schedule or budget and shall  
392 address issues that cannot be resolved by the internal agency oversight committee.

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

396 § 2.2-2023. Virginia Technology Infrastructure Fund created; contributions.

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

400 B. The Fund shall consist of: (i) the transfer of general and nongeneral fund appropriations from  
401 state agencies which represent savings that accrue from reductions in the cost of information technology  
402 and communication services, (ii) the transfer of general and nongeneral fund appropriations from state  
403 agencies which represent savings from the implementation of information technology enterprise projects,  
404 (iii) funds identified pursuant to subsection B of § 2.2-2007, (iv) such general and nongeneral fund fees  
405 or surcharges as may be assessed to agencies for enterprise technology projects, (v) gifts, grants, or  
406 donations from public or private sources, and (vi) such other funds as may be appropriated by the  
407 General Assembly. Savings shall be as identified by the CIO through a methodology approved by the  
408 ~~Board~~ and the Secretary of Finance. The Auditor of Public Accounts shall certify the amount of any  
409 savings identified by the CIO. For public institutions of higher education, however, savings shall consist  
410 only of that portion of total savings that represent general funds. The State Comptroller is authorized to  
411 transfer cash consistent with appropriation transfers. Appropriated funds from federal sources are  
412 exempted from transfer. Except for funds to pay private partners as authorized in subsection B of  
413 § 2.2-2007, moneys in the Fund shall only be expended as provided by the appropriation act.

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

417 § 2.2-2033. Division of Enterprise Applications established; appointment of Virginia Chief  
418 Applications Officer.

419 A. There is hereby established within VITA a Division of Enterprise Applications (the Division) to  
420 oversee the Commonwealth's efforts to modernize the planning, development, implementation,  
421 improvement, and retirement of Commonwealth applications, including the coordination and  
422 development of enterprise-wide or multi-agency applications. The Division shall exercise the powers and  
423 duties conferred in this article.

424 B. The Division shall be headed by a Virginia Chief Applications Officer (CAO), appointed by and  
425 reporting to the CIO ~~with the advice and consent of the Board~~. ~~The Board shall provide the CAO with~~  
426 ~~shall have~~ the powers necessary to direct the Commonwealth's efforts to modernize and oversee the  
427 planning, development, implementation, improvement, and retirement of enterprise-wide or multi-agency

428 applications; to manage the Commonwealth portal; and to approve and oversee annual agency  
429 technology application budgets and contractor-based personnel IT services expenditures for presentation  
430 to and approval by the Board.

431 § 23-38.111. Information technology.

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

442 § 23-77.4. Medical center management.

443 A. The General Assembly recognizes and finds that the economic viability of the University of  
444 Virginia Medical Center, hereafter referred to as the Medical Center, together with the requirement for  
445 its specialized management and operation, and the need of the Medical Center to participate in  
446 cooperative arrangements reflective of changes in health care delivery, as set forth in § 23-77.3, are  
447 dependent upon the ability of the management of the Medical Center to make and implement promptly  
448 decisions necessary to conduct the affairs of the Medical Center in an efficient, competitive manner. The  
449 General Assembly also recognizes and finds that it is critical to, and in the best interests of, the  
450 Commonwealth that the University continue to fulfill its mission of providing quality medical and health  
451 sciences education and related research and, through the presence of its Medical Center, continue to  
452 provide for the care, treatment, health-related services, and education activities associated with Virginia  
453 patients, including indigent and medically indigent patients. Because the General Assembly finds that the  
454 ability of the University to fulfill this mission is highly dependent upon revenues derived from providing  
455 health care through its Medical Center, and because the General Assembly also finds that the ability of  
456 the Medical Center to continue to be a reliable source of such revenues is heavily dependent upon its  
457 ability to compete with other providers of health care that are not subject to the requirements of law  
458 applicable to agencies of the Commonwealth, the University is hereby authorized to implement the  
459 following modifications to the management and operation of the affairs of the Medical Center in order  
460 to enhance its economic viability:

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

462 1. Capital projects.

463 a. For any Medical Center capital project entirely funded by a nongeneral fund appropriation made  
464 by the General Assembly, all post-appropriation review, approval, administrative, and policy and  
465 procedure functions performed by the Department of General Services, the Division of Engineering and  
466 Buildings, the Department of Planning and Budget and any other agency that supports the functions  
467 performed by these departments are hereby delegated to the University, subject to the following  
468 stipulations and conditions: (i) the Board of Visitors shall develop and implement an appropriate system  
469 of policies, procedures, reviews and approvals for Medical Center capital projects to which this  
470 subdivision applies; (ii) the system so adopted shall provide for the review and approval of any Medical  
471 Center capital project to which this subdivision applies in order to ensure that, except as provided in  
472 clause (iii), the cost of any such capital project does not exceed the sum appropriated therefor and that  
473 the project otherwise complies with all requirements of the Code of Virginia regarding capital projects,  
474 excluding only the post-appropriation review, approval, administrative, and policy and procedure  
475 functions performed by the Department of General Services, the Division of Engineering and Buildings,  
476 the Department of Planning and Budget and any other agency that supports the functions performed by  
477 these departments; (iii) the Board of Visitors may, during any fiscal year, approve a transfer of up to a  
478 total of 15 percent of the total nongeneral fund appropriation for the Medical Center in order to  
479 supplement funds appropriated for a capital project or capital projects of the Medical Center, provided  
480 that the Board of Visitors finds that the transfer is necessary to effectuate the original intention of the  
481 General Assembly in making the appropriation for the capital project or projects in question; (iv) the  
482 University shall report to the Department of General Services on the status of any such capital project  
483 prior to commencement of construction of, and at the time of acceptance of, any such capital project;  
484 and (v) the University shall ensure that Building Officials and Code Administrators (BOCA) Code and  
485 fire safety inspections of any such project are conducted and that such projects are inspected by the  
486 State Fire Marshal or his designee prior to certification for building occupancy by the University's  
487 assistant state building official to whom such inspection responsibility has been delegated pursuant to  
488 § 36-98.1. Nothing in this section shall be deemed to relieve the University of any reporting requirement  
489 pursuant to § 2.2-1513. Notwithstanding the foregoing, the terms and structure of any financing of any



490 capital project to which this subdivision applies shall be approved pursuant to § 2.2-2416.

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

498 2. Leases of property.

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

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

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

520 3. Procurement of goods, services and construction.

521 Contracts awarded by the University in compliance with this section, on behalf of the Medical  
 522 Center, for the procurement of goods; services, including professional services; construction; and  
 523 information technology and telecommunications, shall be exempt from (i) the Virginia Public  
 524 Procurement Act (§ 2.2-4300 et seq.), except as provided below; (ii) the requirements of the Division of  
 525 Purchases and Supply of the Department of General Services as set forth in Article 3 (§ 2.2-1109 et  
 526 seq.) of Chapter 11 of Title 2.2; (iii) the requirements of the Division of Engineering and Buildings as  
 527 set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2; and (iv) the authority of the *Chief*  
 528 *Information Officer and the Virginia Information Technologies Agency* as set forth in Chapter 20.1  
 529 (§ 2.2-2005 et seq.) of Title 2.2 and the ~~Information Technology Investment Board created pursuant to~~  
 530 ~~§ 2.2-2457~~ regarding the review and approval of contracts for (a) the construction of Medical Center  
 531 capital projects and (b) information technology and telecommunications projects; however, the provisions  
 532 of this subdivision may not be implemented by the University until such time as the Board of Visitors  
 533 has adopted guidelines generally applicable to the procurement of goods, services, construction and  
 534 information technology and telecommunications projects by the Medical Center or by the University on  
 535 behalf of the Medical Center. Such guidelines shall be based upon competitive principles and shall in  
 536 each instance seek competition to the maximum practical degree. The guidelines shall implement a  
 537 system of competitive negotiation for professional services; shall prohibit discrimination because of race,  
 538 religion, color, sex, or national origin of the bidder or offeror in the solicitation or award of contracts;  
 539 may take into account in all cases the dollar amount of the intended procurement, the term of the  
 540 anticipated contract, and the likely extent of competition; may implement a prequalification procedure  
 541 for contractors or products; may include provisions for cooperative procurement arrangements with  
 542 private health or educational institutions, or with public agencies or institutions of the several states,  
 543 territories of the United States or the District of Columbia; shall incorporate the prompt payment  
 544 principles of §§ 2.2-4350 and 2.2-4354; and may implement provisions of law. The following sections of  
 545 the Virginia Public Procurement Act shall continue to apply to procurements by the Medical Center or  
 546 by the University on behalf of the Medical Center: §§ 2.2-4311, 2.2-4315, and 2.2-4342 (which section  
 547 shall not be construed to require compliance with the prequalification application procedures of  
 548 subsection B of § 2.2-4317), 2.2-4330, 2.2-4333 through 2.2-4341, and 2.2-4367 through 2.2-4377.

549 C. Subject to such conditions as may be prescribed in the budget bill under § 2.2-1509 as enacted  
 550 into law by the General Assembly, the State Comptroller shall credit, on a monthly basis, to the

551 nongeneral fund operating cash balances of the University of Virginia Medical Center the imputed  
552 interest earned by the investment of such nongeneral fund operating cash balances, including but not  
553 limited to those balances derived from patient care revenues, on deposit with the State Treasurer.

554 2. That the third enactment of Chapter 758 of the Acts of Assembly of 2009 is amended and  
555 reenacted as follows:

556 3. That the Department of General Services, the Virginia Information Technologies Agency,  
557 and the State Comptroller shall submit to the Information Technology Investment Board the  
558 standards required pursuant to § 2.2-1115.1 of this act by December 1, 2009. The Department  
559 of General Services and the Virginia Information Technologies Agency shall undertake to use  
560 these standards in the Commonwealth's enterprise electronic procurement system upon  
561 approval by the ~~Information Technology Investment Board~~ *Secretary of Technology* and make  
562 the standards available for use by all agencies and institutions by July 1, 2010. After July 1,  
563 2010, the Department of General Services shall provide purchasing data from the  
564 Commonwealth's enterprise electronic procurement system, to the extent it is available, at least  
565 quarterly for inclusion in the Auditor of Public Accounts' searchable database established  
566 pursuant to § 30-133 of the Code of Virginia. All agencies and institutions that use the  
567 standards developed pursuant to this act that have not previously reported data to the Auditor  
568 of Public Accounts through the Commonwealth's enterprise electronic procurement system  
569 shall, to the extent practicable, provide such data to the Auditor of Public Accounts at least  
570 quarterly beginning after July 1, 2010.

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

573 3. That the Department of General Services, the Virginia Information Technologies Agency,  
574 and the State Comptroller shall submit to the Information Technology Investment Board the  
575 standards required pursuant to § 2.2-1115.1 of this act by December 1, 2009. The Department  
576 of General Services and the Virginia Information Technologies Agency shall undertake to use  
577 these standards in the Commonwealth's enterprise electronic procurement system upon  
578 approval by the ~~Information Technology Investment Board~~ *Secretary of Technology* and make  
579 the standards available for use by all agencies and institutions by July 1, 2010. After July 1,  
580 2010, the Department of General Services shall provide purchasing data from the  
581 Commonwealth's enterprise electronic procurement system, to the extent it is available, at least  
582 quarterly for inclusion in the Auditor of Public Accounts' searchable database established  
583 pursuant to § 30-133 of the Code of Virginia. All agencies and institutions that use the  
584 standards developed pursuant to this act that have not previously reported data to the Auditor  
585 of Public Accounts through the Commonwealth's enterprise electronic procurement system  
586 shall, to the extent practicable, provide such data to the Auditor of Public Accounts at least  
587 quarterly beginning after July 1, 2010.

588 4. That Article 20 (§§ 2.2-2457, 2.2-2458, and 2.2-2458.1) of Chapter 24 of Title 2.2 of the Code of  
589 Virginia is repealed.

590 5. That an emergency exists and this act is in force from its passage.